United States Court of Appeals

for the Second Circuit

APPELLANT'S BRIEF

75-7127

United States Court of Appeals

For the Second Circuit

No. 75-7127

JACKSON O. KING,

Plaintiff-Appellee,

—against—

DEUTSCHE DAMPFS-GES,

Defendant and Third Party Plaintiff-Appellee-Appellant,

—against—

INTERNATIONAL TERMINAL OPERATING CO., INC. and COURT CARPENTRY & MARINE CONTRACTING COMPANY,

Third Party Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF OF DEFENDANT AND THIRD PARTY PLAINTIFF-APPELLEE-APPELLANT

HAIGHT, GARDNER, POOR & HAVENS
Attorneys for Defendant and Third Party Plaintiff-Appellee-Appellant
One State Street Plaza
New York, New York 10004

THOMAS F. MOLANPHY
JAMES M. HAZEN
Of Counsel.

TABLE OF CONTENTS

CASES CITED

United States Court of Appeals

For the Second Circuit

No. 75-7127

JACKSON O. KING,

Plaintiff-Appellee,

—against—

DEUTSCH DAMPFS-GES,

Defendant and Third Party Plaintiff-Appellee-Appellant,

—against—

INTERNATIONAL TERMINAL OPERATING CO., INC and COURT CARPENTRY & MARINE CONTRACTING COMPANY,

Third Party Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

BRIEF OF DEFENDANT AND THIRD PARTY PLAINTIFF-APPELLEE-APPELLANT

Statement

Third party defendants-appellants have appealed from an order of the United States District Court for the Southern District of New York, Motley D. J., dated January 16, 1975, awarding judgment in favor of plaintiff-appellee for $42,900 against defendant and third party plaintiff-

appellee-appellant (hereinafter called shipowner) and in favor of the shipowner against both third party defendants-appellants, jointly and severally, for full indemnity plus counsel fees incurred in the defense of the action. The shipowner submits this brief in support of its protective appeal against plaintiff-appellee and in opposition to the appeals seeking to overturn the award of indemnity.

The action was commenced in the District Court by plaintiff-appellee (hereinafter called plaintiff) to recover damages for injuries which he sustained on June 18, 1968, while working as a lasher in the employ of Court Carpentry & Marine Contracting Company aboard the m/s Trautenfels. The shipowner, in turn, impleaded plaintiff's employer, Court Carpentry, as a third party defendant. As the claim was, essentially, one of improper stowage of cargo aboard the vessel, the loading stevedore, International Terminal Operating Co., Inc., was also made a third party defendant.

The case was originally called for trial on October 31, 1973, before the Honorable Constance Baker Motley. At that time, the attorney for Court Carpentry was actually engaged in the trial of another case and his motion for a severance of the action as to his client was granted over the objection of shipowner's counsel. Judge Motley then, on her own motion, severed the action as to International Terminal Operating Co., Inc., again over the objection of shipowner's counsel. At the conclusion of the trial, the jury found that the shipowner had been negligent but that its vessel was seaworthy. Total damages of $30,000 were reduced to $15,000 because of a further finding that King had been 50% contributorily negligent.

In response to the shipowner's post-trial motion for judgment in its favor, notwithstanding the jury verdict,

Judge Motley set aside the jury finding of negligence on the ground that there was insufficient evidence to support it. In addition, Judge Motley, *sua sponte*, set aside the jury finding that the vessel was not unseaworthy and ordered a new trial on that issue (A. 555a-563a).*

The shipowner then petitioned this Court for a writ of mandamus to vacate so much of Judge Motley's order as directed a new trial and for a dismissal of the complaint. The petition was denied by order dated July 18, 1974.

In anticipation of the second trial, shipowner moved to consolidate the previously severed indemnity actions against both third party defendants and this motion was granted by Judge Motley. Thus, when the case was re-tried on October 9, 10 and 11, 1974, all parties were once again before the Court.

At the conclusion of the second trial, the jury was again required to return a general verdict, together with answers to written interrogatories. The jury found in favor of plaintiff on the issue of unseaworthiness and assessed total damages at $57,200. The jury further found that plaintiff had been 25% contributorily negligent and reduced the award accordingly to $42,900. When the indemnity issues were submitted to the jury, it found that the shipowner was entitled to indemnity from third party defendant, International Terminal Operating Co., Inc., but not against third party defendant, Court Carpentry & Marine Contracting Co. (A. 511-515a).

The shipowner and both third party defendants-appellants then moved to set aside plaintiff's verdict and for an order dismissing the complaint. The shipowner also sought judgment in its favor on the claim for indemnity against

* Appendix references are to appendix of appellant, Court Carpentry & Marine Contracting Co.

Court Carpentry, notwithstanding the jury verdict, on the ground that the contributory negligence of that party's employee (plaintiff) conclusively established its breach of warranty of workmanlike performance. In an opinion dated November 26, 1974, Judge Motley granted the motion for judgment N.O.V. against Court Carpentry but denied all motions to dismiss plaintiff's complaint (A. 574a-581a).

Following entry of judgment, both third party defendants filed Notices of Appeal from the District Court's refusal to dismiss the complaint and the shipowner joins in that appeal. Court Carpentry has further appealed from the entry of judgment against it on the issue of indemnity. International Terminal Operating Co., Inc. also noticed an appeal from the judgment of indemnity against it but that point does not appear to have been pursued independently in its brief. Presumably, if plaintiff's complaint should be dismissed, the indemnity suit against third party defendant, stevedore, would be moot.

The Facts

Jackson O. King, was a lasher employed by third party defendant, Court Carpentry & Marine Contracting Co. Along with fellow employees under their foreman, Andrew Auletti, plaintiff went aboard the m/s Trautenfels, at approximately 8:00 a.m. on June 18, 1968, to secure cargo (A. 33a, 34a, 38a-39a). After working in one of the hatches on the vessel's fore-deck (A. 40a), at approximately 10:30 a.m., he and a fellow lasher, Grover Perry, were directed by Auletti to lash some booms on top of beams in the shelter deck of hatch No. 3 (A. 42a-45a).

From the weather deck, plaintiff observed the steel beams stowed lengthwise in the shelter deck. The crane or boom parts were stowed on top of the beams, on the

inshore and offshore sides of the square of the hatch, leaving a three foot wide aisle down the centerline of the hatch (A. 85a, 89a). Using the ladder at the forward end of the hatch, plaintiff descended into the shelter deck and stepped off onto the steel beams at the forward end of the aisle (A. 45a). He then walked aft along this aisle on top of the beams (A. 47a-48a).

At the trial, plaintiff testified that he had walked to the after end of the aisle, turned to his right and suddenly stepped into a previously unseen space (A. 50a, 52a). However, plaintiff's deposition, a portion of which was read to the jury, clearly indicates that the space into which plaintiff stepped was not off to the side of the center aisle but was within the three foot wide aisle along the centerline of the hatch (A. 301a-311a).

Plaintiff's foreman, Andrew Auletti, confirmed that he sent plaintiff and his partner into the No. 4 shelter deck of the m/s Trautenfels at approximately 10:00 a.m. on June 18, 1968, to lash cargo. Auletti did not go into that compartment before sending the men down (A. 155a). While he looked into the hatch from the weather deck before sending the men in (A. 155a), he, concededly, was not looking for spaces in the stow (A. 182a, 189a, 191a). He acknowledged that, had he seen that the cargo was dangerously stowed, he was under a duty to report it to the stevedore (A. 190a-191a).

It is undisputed that the steel beams about which plaintiff complains were stowed by third party defendant-appellant, International Terminal Operating Co., Inc., between 8:00 a.m. and 11:00 a.m. on June 18, 1968 (see Shipowner's interrogatories to International Terminal Operating Co., Inc. and the latter's answers which were read to the jury, A. 299a-301a, and the deposition testimony

of the stevedore's hatch boss, Bob Pinto, which was also read to the jury, A. 202a-218a).

POINT I

The District Court erred in failing to dismiss plaintiff's complaint for failure of proof.

As noted above, plaintiff's liability claim on the second trial was limited to one of unseaworthiness, only. At the close of plaintiff's case and again when all parties rested, motions were made on behalf of the shipowner as well as both third party defendants to dismiss plaintiff's complaint for failure to make out a *prima facia* case. The motions were renewed after the jury verdict. On all three occasions, the basis for the motions was the absence of competent testimony to support plaintiff's claim of improper stowage.

To avoid unnecessary repetition of the arguments and authorities relied upon by appellants, Court Carpentry and International Terminal Operating Co., the shipowner herewith adopts and incorporates herein so much of their briefs as challenges the refusal of the District Court to dismiss the complaint for failure of proof.

POINT II

Should plaintiff's verdict be permitted to stand, the record fully supports the jury's award of indemnity against International Terminal Operating Co., Inc.

Plaintiff's claim of unseaworthiness in this case has always been limited to the alleged improper stowage of steel beams in hatch No. 4 of the m/s Trautenfels (see plaintiff's answers to interrogatories, A. 527a). Equally free from doubt is the fact that the beams in question were stowed by appellant, International Terminal Operating

Co., Inc., an independent stevedoring contractor (see shipowner's interrogatories to I.T.O. and the latter's answers, A. 550a-554a; testimony of I.T.O.'s hatch boss, A. 202a-218a).

Should plaintiff's recovery be allowed to stand, the shipowner's right to indemnity is found in *Ryan Stevedoring Co.* v. *Pan-Atlantic S.S. Corp.*, 350 U.S. 124 (1956), where the Supreme Court stated at p. 133:

> "The shipowner here holds petitioner's uncontroverted agreement to perform all of the shipowner's stevedoring operations at the time and place where the cargo in question was loaded. That agreement necessarily includes petitioner's obligation not only to stow the pulp rolls, but to stow them properly and safely. Competency and safety of stowage are inescapable elements of the service undertaken."

As no exception was taken to the district court's charge on the indemnity issue as between shipowner and stevedore, the jury verdict in favor of the shipowner should stand, if plaintiff's recovery is upheld.

POINT III

The District Court did not err in granting judgment, notwithstanding the jury verdict, in favor of the shipowner on its claim for indemnity against Court Carpentry.

In response to written interrogatories submitted by Judge Motley, the jury found that plaintiff had been 25% contributorily negligent in causing his own accident. This finding is amply supported by the evidence and is not now challenged by any of the parties.

Immediately after the jury verdict in favor of plaintiff and prior to the making of any motions with respect thereto, Judge Motley delivered her charge on the shipowner's claim for indemnity against both third party defendants. (A. 494a-499a). When the jury left the room, shipowner's counsel moved for a directed verdict against plaintiff's employer, Court Carpentry & Marine Contracting Co. on the ground that plaintiff's contributory negligence, attributable to his employer on the issue of indemnity, conclusively established the employer's breach of its warranty of workmanlike performance (A. 503a). Judge Motley reserved decision on the motion (A. 506a) and the jury thereafter returned a further verdict in favor of the shipowner on its claim against the stevedore but against the shipowner on its claim against the employer (A. 507a-508a).

Following the trial, shipowner's counsel, by notice dated October 21, 1974, moved for the entry of judgment, notwithstanding the jury verdict, in favor of the shipowner on its claim for indemnity against Court Carpentry.

In an opinion dated November 26, 1974, Judge Motley granted the motion and entered judgment against Court Carpentry in accordance with the precedents established by this Court in *Mortensen* v. *A/S Glittre*, 348 F. 2d 383 (2 Cir., 1965); *McLaughlin* v. *Trelleborgs Angfartygs A/B*, 408 F. 2d 1334 (2 Cir., 1969), cert. den. 395 U.S. 946 (1969) and *Hartnett* v. *Reiss Steamship Company*, 421 F. 2d 1011 (2 Cir., 1970).

The imputation of a longshoreman's contributory negligence to his employer in determining the issue of indemnity has long been approved by this Court. It appears to have received initial recognition in *Damanti v. A/S Inger*, 314 F. 2d 395 (2 Cir., 1963) where, in holding a stevedore-employer liable to a shipowner in indemnity, the Court stated at p. 399:

> "It is probable that the negligence of the stevedore found by both triers was based solely on the actions of the injured longshoreman."

Five months later, the Court extended the same reasoning to a case involving an expressed indemnity provision in a stevedoring contract in *Shenker* v. *United States*, 322 F. 2d 622 (2 Cir., 1963) saying, at p. 629:

> "The fact that the negligence of Shenker, as the injured employee, was partially responsible for the accident does not preclude the United States from recovery. The language of the contract neither limits to a particular type of employee the negligence upon which indemnification may be based nor excludes the negligence of any particular employee as a factor which may make the indemnification provision operative."

The following year, the issue was further crystalized in *Nicroli* v. *Den Norske Afrika et al.*, 332 F. 2d 651 (2 Cir., 1964). There, defendant, shipowner, had been found negligent and its vessel unseaworthy because of an accumulation of wet and melted sugar on deck and on which plaintiff, longshoreman, slipped and fell. In affirming the District Court's award of indemnity against the stevedore, employer, the Court stated initially at p. 656:

> "The stevedore is chargeable with constructive notice of a dangerous condition through the knowledge of its employees including the plaintiff."

Most significantly, the Court went on to state:

> "Moreover, the plaintiff's own negligence in failing to watch where he was going and in taking an unsafe route when he knew that a safe route was available would be sufficient to charge the stevedore

> with breach of its warranty of workmanlike service. Damanti v. A/S Inger, 314 F. 2d 395, 399 (2 Cir., 1963)."

Against the background of these authorities, there developed the practice of holding employers liable in indemnity, as a matter of law, where a jury had first found plaintiff-employee contributorily negligent for, as was stated in *Caputo* v. *U. S. Lines Company*, 311 F. 2d 413 (2 Cir., 1963) at 416:

> ". . . One of the purposes of Rule 14(a) of the Federal Rules of Civil Procedure which allows the bringing in of a third party defendant is to make the evidence adduced by the plaintiff against the defendant available as a basis for the claim of the third party plaintiff against the third party defendant. *Inconsistent determinations based upon the same evidence at the same trial are logically impossible.*" (emphasis added)

The very issue here raised, which is but an application of the *Caputo* principle, was the one first before the Court in *Mortensen* v. *A/S Glittre*, 348 F. 2d 383 (2 Cir., 1965). Mortensen, an employee of a shore-side painter, had noticed an oil slick on an engine room skylight in the area where he was working. He did not clean it up as he had been instructed to do nor did he report it. Approximately two hours later, a fellow-employee slipped in the oil previously noticed by Mortensen and fell against the scaffold on which Mortensen was working. The jury found defendant's vessel unseaworthy but also found that plaintiff had been contributorily negligent. On the basis of the latter finding, the trial court then directed a verdict in favor of the shipowner on its claim for indemnity against plaintiff's employer. This Court, in affirming the trial court's directing

of a verdict in favor of the shipowner and against Mortensen's employer for indemnity said, at p. 385:

> "Mortensen's negligent conduct, which is imputed to his employer, was manifestly a breach of Federal's warranty of a workmanlike performance of the obligations of the contract."

The identical issue was again raised in *McLaughlin* v. *Trelleborgs Angfartygs A/B*, 408 F. 2d 1334 (2 Cir., 1969), cert. den., 395 U.S. 946. There, the trial jury brought in a special verdict that the vessel was unseaworthy, the shipowner negligent and plaintiff, himself, contributorily negligent. Based upon the last mentioned finding, the trial court directed a verdict in favor of the vessel owner on its claim for indemnity against plaintiff's employer, the third party defendant. In affirming, this Court stated, 408 F. 2d at 1336:

> "The rationale of *Mortensen* was rather that the jury's finding of contributory negligence by the third party defendant's employee was conclusive of breach of the defendant's W.W.P. [warranty of workmanlike performance]. This followed logically from an earlier holding of ours that a finding that an injured longshoreman had negligently exposed himself to danger required entry of a judgment for indemnity, even though the employer had no real opportunity for control. Damanti v. A/S Inger, 314 F. 2d 395 (2 Cir., 1963). See also, Shenker v. United States, 322 F. 2d 622, 628-629 (2 Cir., 1963) [expressed warranty]; Nicroli v. Den Norske Afrika-OG Australielinie, supra, 332 F. 2d at 656."

The Court in *McLaughlin* then discussed the holding of the Supreme Court in *Italia Societa per Azioni* v. *Oregon Stevedoring Co.*, 376 U.S. 315, in human terms and stated, 408 F. 2d at 1337:

> "We see no reason to suppose that the Italia doctrine applies only to material and not to human resources; indeed the Court's footnote reference to *Calderola* and *Orlando*, 376 U.S. at 321 n. 8, 84 S.Ct. 748, in support of a statement concerning equipment would not have been pertinent unless the Court considered that personnel should be treated on the same basis as rope. Putting the Italia criteria in human terms, while Golten did not warrant a perfect rigger, it did warrant one who would not in fact be negligent."

Following *McLaughlin*, this Court was once more called upon to review the issue in *Hartnett* v. *Reiss Steamship Company*, 421 F. 2d 1011 (2 Cir., 1970), cert. den. 400 U.S. 852. There again, plaintiff had been found guilty of contributory negligence and the trial court directed a verdict against his employer on the shipowner's claim for indemnity. In affirming, this Court made the following pertinent observations, 421 F. 2d at 1017:

> "Grain Handling next argues that it should have been allowed to submit to the jury its claim that it did not breach its warranty to the vessel. Grain Handling relies on International Terminal Operating Co. v. N.V. Neder, Amerk. Stoomv. Maats., 393 U.S. 74, 89 S.Ct. 53, 21 L. Ed. 2nd 58 (1968) . . .
>
> "We believe that disposition of this point is controlled by our recent decision in McLaughlin v. Trelleborgs Angfartygs A/B, 408 F. 2d 1334 (2 Cir., 1969) cert. denied Golten Marine Co. v. Trelleborgs Angfartygs, 395 U.S. 946, 89 S. Ct. 2020, 23 L. Ed. 2nd 464 (1969). We there held that a stevedore warranted employees who would in fact not be negligent, and that a finding of a stevedore's employee (the plaintiff) was contributorily negli-

> gent conclusively determined the stevedore's breach of warranty."

See also, *Paccione* v. *American Export Isbrandtsen Lines*, 1972 A.M.C. 2244 (E.D.N.Y., 1972, not officially reported).

Joining the Second Circuit on this issue are the Courts of Appeals for the Fourth Circuit, *United States Lines, Inc.* v. *Jarka Corp. of Baltimore*, 444 F. 2d 26, 28-29 (4 Cir., 1971); *Chinese Maritime Trust, Ltd.* v. *Carolina Shipping Co.*, 456 F. 2d 192 (4 Cir., 1972) and the Ninth Circuit, *Arista Cia. de Vapores S.A.* v. *Howard Terminal*, 372 F. 2d 152, 154 (9 Cir., 1967).

Court Carpentry protests that it has been denied its constitutional right to trial by jury under the 7th Amendment and under certain decisions of the United States Supreme Court. Suffice it to say that counsel raised the same arguments before this Court in *McLaughlin* v. *Trelleborgs Angfartygs A/B*, 408 F. 2d 1334 (2 Cir., 1969) where the identical authorities were reviewed and the Court stated, quite succinctly, 408 F. 2d at 1338:

> "We are reversing no jury determination here; the jury has found that McLaughlin acted unreasonably."

At page 26 of its brief, Court Carpentry takes the position that contributory negligence of the plaintiff is merely a factor to be taken into consideration in determining whether the contractor has breached its warranty of workmanlike performance. This, of course, is the rule in the Fifth Circuit, *Julian* v. *Mitsui O.S.K. Lines Ltd.*, 479 F. 2d 432 (5 Cir., 1973). In citing *Julian*, however, appellant neglects to point out that the majority of the Court there acknowledged a contrary rule in the Second Circuit stating, 479 F. 2d at 433:

> "We are asked to reconsider our position in light of the rule prevailing in the Second, Fourth and Ninth Circuits, that any contributory negligence on behalf of the longshoreman is imputed to the stevedore and constitutes a breach of the stevedore's warranty as a matter of law."

Interestingly, the fountainhead case in the Fifth Circuit appears to be *Lusich* v. *Bloomfield Steamship Company*, 355 F. 2d 770 (5 Cir., 1966) which, in turn, at p. 775 relies on the Court's prior decision in *Drewery* v. *Daspit Bros. Marine Divers, Inc.*, 317 F. 2d 425 (5 Cir., 1963). Of that authority, this Court as early as *Shenker* v. *United States*, 322 F. 2d 622 (2 Cir., 1963) stated at p. 629:

> "To the degree that the recent opinion in Drewery v. Daspit Bros. Marine Divers, Inc., 317 F. 2d 424 (5 Cir., 1963), is to the contrary, we agree with the dissenting opinion of Judge Rives. Id. 317 F. 2d at 428."

Ironically, when the Fifth Circuit in *Lusich* v. *Bloomfield Steamship Company*, *supra*, first announced that plaintiff's contributory negligence was but a factor to be weighed in determining the employer's breach of warranty, it relied on *Damanti* and *Nicroli* as its authority, 355 F. 2d at 778. As noted above, these same authorities, *Damanti* and *Nicroli*, formed the basis for the contrary rule as it eventually evolved in this Circuit, *McLaughlin* v. *Trelleborgs Angfartygs A/B*, 408 F. 2d 1334, 1336 (2 Cir., 1969).

Court Carpentry also cites *Anzalone* v. *Moore-McCormack Lines, Inc.*, 43 A.D. 2nd 818, 351 N.Y.S. 2nd 6 (1st Dep't., 1974) as having rejected the principal established by the *Mortensen*, *McLaughlin* and *Hartnett* line of cases. It is most interesting to note that *Anzalone* also involved Court Carpentry & Marine Contracting Co., Inc. as the

third party defendant and both the majority and the dissenting opinion of Presiding Justice, McGivern, acknowleged that the court's holding was in conflict with the established rule in the Second Circuit.

Nye v. *A/S D/S Svendborg*, 501 F. 2d 376 (2 Cir., 1974), cited extensively at pp. 23-25 of appellant, Court's, brief is patently inapposite. While plaintiff-employee was there permitted to recover against a shipowner and the latter, despite plaintiff's contributory negligence, was denied indemnity against his employer, the Court felt no compulsion to discuss the *Mortensen*, *McLaughlin* and *Hartnett* line of cases, saying, 501 F. 2d at 380:

> "The principles set forth in cases dealing with a stevedore's implied warranty of workmanlike performance are not applicable in this case."

Plaintiff's reliance on *Hurdich* v. *Eastmount Shipping Corp.*, 503 F. 2d 397 (2 Cir., 1974) is equally misplaced as that case (1) did not involve a finding of contributory negligence on the part of plaintiff, (2) was concerned with a non-employing third party defendant and (3) hinged on the question of "conduct sufficient to preclude", an argument not even advanced in the present case.

It is respectfully submitted that the holdings of this Court in *Mortensen*, *McLaughlin* and *Hartnett*, relied upon by Judge Motley, are fully dispositive of the issue between shipowner and appellant, Court Carpentry. Just as the shipowner's warranty of seaworthiness extends to personnel as well as equipment, *Waldron* v. *Moore-McCormack Lines*, 386 U.S. 724 (1967), so too should the corrolary doctrine of warranty of workmanlike performance, *DeGioia* v. *United States Lines Company*, 304 F. 2d 421, 426 (2 Cir., 1962), embrace the stevedore's personnel as well as its equipment. See discussion of this point in *Mc-*

Laughlin, supra, reviewing *Italia Societa Azioni* v. *Oregon Stevedoring Company,* 376 U.S. 315 (1964).

Finally, shipowner would urge that, in the event plaintiff's complaint is dismissed, the unchallenged finding of contributory negligence should stand and that the judgment against Court Carpentry for counsel fees should be affirmed under the principles set forth in *Massa* v. *C.A. Venezuelan Navigacion,* 332 F. 2d 779 (2 Cir., 1964) and *Guarracino* v. *Luckenbach Steamship Co.,* 333 F. 2d 646 (2 Cir., 1964). See, also, *Arista Cia. De Vapores, S.A. Howard Terminal,* 372 F. 2d 152 (9 Cir., 1967).

CONCLUSION

The judgment in favor of plaintiff-appellee should be reversed, the complaint dismissed and shipowner awarded counsel fees against appellant, Court Carpentry.

In the event the judgment in favor of plaintiff-appellee is affirmed, the further judgments in favor of the shipowner against both third party defendants-appellants should be, in all respects, affirmed.

Respectfully submitted,

HAIGHT, GARDNER, POOR & HAVENS
Attorneys for Defendant and Third Party Plaintiff-Appellee Appellant
One State Street Plaza
New York, New York 10004

THOMAS F. MOLANPHY
JAMES M. HAZEN
Of Counsel.

Received 2 copies
Seize & Fetell
April 21, 1975 11 AM

Rec'd Fogarty, McLaughlin
4/20/75

By James D. Hewitt